

Senate File 310 - Introduced

SENATE FILE 310
BY SCHULTZ

A BILL FOR

1 An Act allowing certain milk and products using milk to be
2 transferred directly by operators of dairy farms, and making
3 penalties applicable.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 159.6, subsection 7, Code 2017, is
2 amended to read as follows:

3 7. Regulation and inspection of foods, drugs, and other
4 articles, as provided in Title V, subtitle 4, but chapter 205
5 of that subtitle shall be enforced as provided in that chapter.
6 Except as expressly authorized in subtitle 4, the department
7 shall not regulate any of the following:

8 a. The production, processing, labeling, or marketing of
9 milk, if the milk is produced by a person operating a dairy
10 farm in compliance with section 192.145.

11 b. The manufacturing, labeling, or marketing of a milk
12 product or dairy product, if the milk product or dairy
13 product is manufactured by a person operating a dairy farm in
14 compliance with section 192.145.

15 Sec. 2. Section 191.2, subsection 5, unnumbered paragraph
16 1, Code 2017, is amended to read as follows:

17 ~~All~~ Except as provided in subsection 5A, bottles,
18 containers, and packages enclosing milk or milk products shall
19 be conspicuously labeled or marked with the following:

20 Sec. 3. Section 191.2, Code 2017, is amended by adding the
21 following new subsection:

22 NEW SUBSECTION. 5A. A person who operates a dairy farm as
23 provided in chapter 192 and who sells milk or a milk product
24 to an individual in compliance with section 192.145 is not
25 required to label or mark a container which contains the milk
26 or milk product.

27 Sec. 4. NEW SECTION. 191.9A **Exception for on-farm sale of**
28 **dairy products.**

29 A person who operates a dairy farm as provided in chapter 192
30 and who sells a dairy product to an individual in compliance
31 with section 192.145 is not required to label or mark a
32 container which contains the dairy product.

33 Sec. 5. Section 192.103, Code 2017, is amended to read as
34 follows:

35 **192.103 Sale of grade "A" milk to final consumer —**

1 **impoundment of adulterated or misbranded milk.**

2 1. Only grade "A" pasteurized milk and milk products
3 shall be sold to the final consumer, or to restaurants, soda
4 fountains, grocery stores, or similar establishments, except
5 in as follows:

6 a. In an emergency, the sale of pasteurized milk and milk
7 products which have not been graded, or the grade of which is
8 unknown, may be authorized by the secretary, in which case,
9 such products shall be labeled "ungraded".

10 b. A person who operates a dairy farm may sell milk or
11 a milk product to an individual in compliance with section
12 192.145.

13 2. No person shall within the state produce, provide, sell,
14 offer, or expose for sale, or have in possession with intent
15 to sell, any milk or milk product which is adulterated or
16 misbranded; except, in an emergency, the sale of pasteurized
17 milk and milk products which have not been graded, or the grade
18 of which is unknown, may be authorized by the secretary, in
19 which case such products shall be labeled "ungraded".

20 3. Any adulterated or misbranded milk or milk product
21 may be impounded by the secretary or authorized municipal
22 corporation and disposed of in accordance with applicable laws
23 or regulations.

24 Sec. 6. NEW SECTION. 192.144 **Definitions.**

25 As used in this chapter, unless the context otherwise
26 requires:

27 1. "*Dairy product*" means a product, other than a milk
28 product, in which milk is the principal ingredient at any
29 temperature and in either a manufactured or unmanufactured
30 state. To the extent that it is not classified as a milk
31 product, a dairy product includes but is not limited to butter,
32 cheese, cream, cottage cheese, ricotta cheese, kefir, or ice
33 cream.

34 2. "*Manufacture*" means to convert or condition personal
35 property by changing the form, composition, quality, or

1 character of a product, and includes activities associated with
2 a creamery or cheese factory.

3 Sec. 7. NEW SECTION. 192.145 On-farm production,
4 processing, manufacturing, and marketing.

5 1. A person who operates a dairy farm may do any of the
6 following:

7 a. Produce milk at the dairy farm or process the milk at the
8 dairy farm, if the person does not sell the milk. Nothing in
9 this paragraph prevents the person from disposing of the milk
10 without receiving compensation.

11 b. Produce milk at the dairy farm or process the milk at
12 the dairy farm, if the person sells the milk to an individual,
13 regardless of whether the milk is unpasteurized or ungraded.
14 The milk must be sold to the individual on a retail basis and
15 not for resale. The person may deliver the milk or cause the
16 milk to be delivered to a location specified by the individual.
17 An individual who receives the milk shall not resell it.

18 2. A person who operates a dairy farm may manufacture a
19 milk product or dairy product at the dairy farm by using milk
20 produced at the dairy farm, if any of the following apply:

21 a. The person does not sell the milk product or dairy
22 product. Nothing in this paragraph prevents the person
23 from disposing of the milk product or dairy product without
24 receiving compensation.

25 b. The person sells the milk product or dairy product to
26 an individual, regardless of whether the milk product or dairy
27 product is unpasteurized or ungraded. The milk product or
28 dairy product must be sold to the individual on a retail basis
29 and not for resale. The person may deliver the product or
30 cause the product to be delivered to a location specified by
31 the individual. An individual who receives the milk product or
32 dairy product shall not resell it.

33 3. A person who operates a dairy farm shall not be otherwise
34 subject to regulation by the department for actions taken in
35 compliance with this section. Such regulation includes but

1 is not limited to labeling requirements under chapter 191 or
2 licensing, permitting, or inspection requirements under this
3 chapter or chapter 194.

4 Sec. 8. NEW SECTION. 194.22 On-farm production, processing,
5 manufacturing, and marketing — exception.

6 This chapter does not apply to any of the following:

- 7 1. The production, processing, labeling, or marketing of
8 milk, if the milk is produced by a person operating a dairy
9 farm in compliance with section 192.145.
- 10 2. The manufacturing, labeling, or marketing of a milk
11 product or dairy product, if the milk product or dairy
12 product is manufactured by a person operating a dairy farm in
13 compliance with section 192.145.

14 EXPLANATION

15 The inclusion of this explanation does not constitute agreement with
16 the explanation's substance by the members of the general assembly.

17 BILL'S PROVISIONS. This bill provides that a person who
18 operates a dairy farm (operator) may produce and dispose of
19 the milk produced on the dairy farm, process such milk, or
20 manufacture a milk product or dairy product (product) from such
21 milk without state regulation under certain circumstances.
22 Generally, a "milk product" includes items such as cream, sour
23 cream, eggnog, or buttermilk for which temperature is an issue,
24 but may not include other dairy items such as butter or cheese.
25 The bill defines a "dairy product" as a manufactured item other
26 than a milk product in which milk is the principal ingredient.
27 The operator may sell the milk or product, regardless of
28 whether the milk or product is unpasteurized or ungraded, so
29 long as it is sold to an individual on a retail basis and not
30 for resale. The operator may also deliver the milk or product
31 to a location specified by the individual. A person purchasing
32 the milk or product is prohibited from reselling the milk or
33 product. The operator is also not subject to state regulations
34 governing the production, processing, labeling, or marketing
35 of milk or the manufacturing, labeling, or marketing of a milk

1 product to the extent that the operator is acting in compliance
2 with the bill's provisions.

3 BACKGROUND. Dairy production and the manufacture of milk
4 and dairy products are governed under federal and state law
5 including by the United States food and drug administration
6 (FDA) under 21 C.F.R. pt. 1240 and the department of
7 agriculture and land stewardship (DALs) under Code title V,
8 subtitle 4. Specifically, DALs regulates and enforces a
9 number of statutory provisions governing the production of
10 products, including the labeling of milk and milk products
11 (Code chapter 191), the production and marketing of milk and
12 products manufactured from milk (Code chapter 192), and the
13 grading of milk (Code chapter 194). This includes a number of
14 departmental rules (21 IAC, chs. 68-71). DALs also regulates
15 standards for dairy products (Code section 190.2 and 21 IAC ch.
16 71). DALs has adopted by reference the "Grade 'A' Pasteurized
17 Milk Ordinance", a body of comprehensive regulations published
18 by the national conference on interstate milk shipments and the
19 FDA (Code section 192.102). Under state law, all milk must
20 be sold on the basis of grade (Code section 194.10) and only
21 grade "A" pasteurized milk and milk products can be sold to the
22 final consumer (Code section 192.103). Grade "B" milk may be
23 sold for manufacturing purposes (21 IAC 68.2). All dairy farms
24 selling grade "A" or grade "B" milk must be issued a permit (21
25 IAC 68.2) and are subject to inspection (21 IAC 68.12).

26 PENALTY. A person who violates the bill's provisions is
27 guilty of a simple misdemeanor (Code section 189.21). A simple
28 misdemeanor is punishable by confinement for no more than 30
29 days or a fine of at least \$65 but not more than \$625 or by
30 both.